

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MOTION TO AMEND ORDER AND JUDGMENT

Comes now Eugene Leathers, through counsel Laine Cardarella, Federal Public Defender, and respectfully moves the Court for an amended Order on Motion for Sentence Reduction (Compassionate Release) and a new amended judgment.

On December 3, 2020 Mr. Leathers filed a pro se Motion for Compassionate Release. The government filed a response opposing the motion on December 16. On December 22, this Court granted Mr. Leathers' motion, reducing his sentence to "time served." An amended judgment reflecting a sentence of time served was entered the same date. The Court imposed up to a 14-day stay on the execution of the sentence reduction, in order to allow adequate time for the Probation Department to evaluate a home plan for Mr. Leathers, and for the Bureau of Prisons to arrange safe travel for him.

Mr. Leathers and his counsel believe it was the Court's intent that he be released from custody within 14 days of the order. However, Mr. Leathers has a conviction in the Eastern District of Kentucky for which he received a sentence of 30

months in the Bureau of Prisons consecutive to his sentence in this case. A sentence of “time served” in this case will not result in Mr. Leathers’ immediate release. Instead, he will immediately begin serving his 30-month sentence.

If the Court intended Mr. Leathers to be released within 14 days, it must amend its order. Mr. Leathers has been in federal custody since May 11, 2001 (see PSI at page 1.) He has, therefore, been in custody for 235 months and 11 days. If the Court reduces Mr. Leathers’ sentence to 205 months, the 30 month “overage” will be credited by the BOP to Mr. Leathers’ consecutive sentence out of the Eastern District of Kentucky. With both sentences satisfied, Mr. Leathers will be eligible for release from custody after completion of the stay ordered by the Court.

Due to the emergency nature of these proceedings, and in light of the on-going pandemic and Mr. Leathers’ particularly vulnerability because of his medical conditions, he respectfully requests expedited briefing of this matter. Mr. Leathers requests that the Court order the government to respond to this motion within seven days.

Wherefore Eugene Leathers respectfully prays that the Court will enter an amended order and judgment, granting his motion for sentence reduction and imposing a sentence of 205 months.

Respectfully submitted,

/s/ Laine Cardarella
Laine Cardarella
Federal Public Defender
1000 Walnut, Suite 600
Kansas City, MO 64106
Phone 816-471-8282

CERTIFICATE OF SERVICE

In accordance with Rule 49(a), (b) and (d), Fed. R. Crim. P., and Rule 5(b), Fed. R. Civ. P., it is hereby CERTIFIED that one copy of the foregoing motion was electronically filed on December 22, 2020, and notice was sent to all counsel of record, pursuant to the Electronic Case Filing system.

/s/ Laine Cardarella
Laine Cardarella